

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Aliza Klingenstein	Team: Squad #16	CCRB Case #: 202201383	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 02/27/2022 4:20 PM	Location of Incident: § 87(2)(b)	18 Mo. SOL 8/27/2023	Precinct: 32		
Date/Time CV Reported Sun, 02/27/2022 5:35 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 03/07/2022 8:53 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. PO Anthony Arena	08750	960171	032 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Andres Cadavid	25676	969559	032 PCT
2. SGT Jenny Wong	03524	947613	032 PCT
3. PO Kevin Mcdermott	02115	968628	032 PCT
4. PO Shpresa Tulovic	17596	961397	032 PCT
5. PO Emmanuel Ortiz	08441	964689	032 PCT
6. PO Eric Gorin	24439	968458	032 PCT
7. PO Taykumar Harry	19688	967916	032 PCT
8. PO Caroline Kasza	07528	969145	032 PCT
9. PO Jose Gerez	25085	969728	032 PCT
10. SGT Brendan Murphy	03035	955237	032 PCT

Officer(s)	Allegation	Investigator Recommendation
A . PO Anthony Arena	Abuse: Police Officer Anthony Arena threatened to arrest § 87(2)(b)	§ 87(2)(b)

Case Summary

On February 27, 2022, § 87(2)(b) filed this complaint over the phone with IAB. It was received at the CCRB on March 07, 2022.

On February 27, 2022, at approximately 4:20 p.m., at § 87(2)(b) in Manhattan, Police Officer Anthony Arena of the 32nd Precinct threatened to arrest § 87(2)(b) (**Allegation A: Abuse of Authority**, § 87(2)(g)).

This case was originally assigned to Investigator Stephanie Dukich and sent to mediation on March 23, 2022. On April 19, 2022, the case was returned to investigation and reassigned to Investigator Aliza Klingenstein.

Twelve BWC videos were received and used to analyze the allegation (**Board Review 01-12**).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Anthony Arena threatened to arrest

§ 87(2)(b)

§ 87(2)(b) testified that on Sunday, February 27, 2022, she called 911 and reported that her 20-year-old son, § 87(2)(b) was inside her apartment cursing at her (**Board Review 13**). § 87(2)(b) lived at his father's residence in Brooklyn, but he worked for § 87(2)(b) in her apartment as a home attendant on the weekends. The previous evening on February 26, 2022, § 87(2)(b) let § 87(2)(b) sleep at her apartment so he would be on time for his morning shift, which § 87(2)(b) had also allowed the weekend prior. Sergeant Jenny Wong, Police Officer Andres Cadavid, and Police Officer Shpresa Tulovic, all of the 32nd Precinct, responded to § 87(2)(b) first 911 call and escorted § 87(2)(b) out of the apartment.

Approximately one hour later, § 87(2)(b) returned to § 87(2)(b) apartment and knocked on her door, but § 87(2)(b) refused to let him in. § 87(2)(b) entered the apartment through a window and fell asleep on the couch. § 87(2)(b) called 911 again, requested that § 87(2)(b) be removed, and stated that § 87(2)(b) had "mental health issues." Over one hour later, PO Arena and Police Officer Kevin McDermott of the 32nd Precinct arrived, and § 87(2)(b) stated that § 87(2)(b) had been aggressive with her. § 87(2)(b) did not have official identification with him, but § 87(2)(b) insisted that § 87(2)(b) did not live with her. PO Arena told § 87(2)(b) that because § 87(2)(b) had slept at § 87(2)(b) apartment for two consecutive weekends, § 87(2)(b) lived at § 87(2)(b) residence. PO Arena then told § 87(2)(b) that if § 87(2)(b) returned to her apartment, knocked on her door, and § 87(2)(b) did not let § 87(2)(b) inside, § 87(2)(b) would be arrested. EMS arrived and evaluated § 87(2)(b) but he was not removed to the hospital. The officers eventually left the apartment with § 87(2)(b).

In PO Arena's BWC at 2:20, § 87(2)(b) tells PO Arena and PO McDermott that § 87(2)(b) entered her apartment through a window and damaged her property (**Board Review 05**). At 3:04, § 87(2)(b) escorts the officers to the living room, where § 87(2)(b) sits calmly on the couch. At 3:08, § 87(2)(b) states she believes § 87(2)(b) needs to be removed to a mental hospital. At 3:33, § 87(2)(b) tells PO Arena that he arrived at the apartment on Friday (two days prior). At 4:15, § 87(2)(b) tells PO Arena that § 87(2)(b) works as a home attendant. At 5:12, PO McDermott asks § 87(2)(b) for

identification, and § 87(2)(b) states it is on his phone, which is out of charge. At 5:35, § 87(2)(b) tells PO Arena that he entered the apartment through a window because § 87(2)(b) would not let him through the door. At 5:41, PO Arena states, “And you live here, right?” (Prior to this, neither § 87(2)(b) nor § 87(2)(b) had stated that § 87(2)(b) lived at § 87(2)(b) apartment, nor had § 87(2)(b) provided proof of residency.) At 5:42, § 87(2)(b) responds, “I’m back and forth. If I’m not here, I’m at my dad’s, if I’m not at my dad’s, I’m here.”

At 6:55, PO Arena tells § 87(2)(b) that because his mother wants him to be medically evaluated, the officers can request EMS, and EMS will speak to him and decide whether to remove him. At 7:06, PO Arena continues, “They’ll come talk to you like I’m talking to you now, they’ll see that you’re fine, and they’ll deem you that, like, they don’t have to take you.” At 7:14, § 87(2)(b) states that this scenario has happened often over the past four or five years. At 7:56, PO Arena suggests that § 87(2)(b) stay with his father “all the time,” since he already stays there “sometimes.” At 8:01, § 87(2)(b) responds, “He’s my primary basically. I just come here when I want to visit or work, that’s it.”

At 10:11, PO Arena approaches PO McDermott and § 87(2)(b) and states that § 87(2)(b) has agreed to speak to EMS. At 10:14, PO McDermott states that § 87(2)(b) is alleging criminal mischief, so PO McDermott believes the officers should arrest § 87(2)(b). At 10:28, PO Arena asks § 87(2)(b) “So you want to have your son arrested?” § 87(2)(b) responds that she wants her son to go to the hospital. PO Arena states that that is EMS’s decision, and at 10:52, § 87(2)(b) states, “Ok then, if he don’t go, he gets arrested.”

At 11:15, PO Arena speaks privately to PO McDermott and states that § 87(2)(b) stated he lives back and forth between § 87(2)(b) and his father’s apartments, so § 87(2)(b) cannot legally lock him out. At 11:24, PO McDermott asks PO Arena how long § 87(2)(b) has been at § 87(2)(b) apartment, and PO Arena states, “He said he’s back and forth here like every...you know, multiple times within a month. Sometimes he stays over there, sometimes he stays here, he sleeps here. He lives here, he basically lives with his mom and his dad. So, § 87(2)(b) locking in the door, she’s in the wrong too. That’s an illegal eviction.”

At 12:46, PO Arena approaches § 87(2)(b) and states, “So § 87(2)(b) stays here back and forth, right?” § 87(2)(b) responds, “No, he comes, you know, he comes over... I don’t let him stay. He tried to do that 30-day thing with me, no. Or the ten-day thing with me, that’s not happening. So, I let him come on the weekends.” At 13:54, § 87(2)(b) tells PO Arena that § 87(2)(b) father stated § 87(2)(b) could go to his residence at § 87(2)(b). At 14:08, § 87(2)(b) states § 87(2)(b) is 20 years old.

At 14:39, PO Arena confirms with § 87(2)(b) that he slept at § 87(2)(b) apartment the Friday (two days) before this incident. At 14:48, PO McDermott states, “But if it hasn’t been 30 days...” At 15:02, PO Arena tells PO McDermott, “If he’s been staying at both, it’s both his residence, really.” At 15:08, PO McDermott tells PO Arena that since § 87(2)(b) has not spent 30 consecutive days at either § 87(2)(b) or his father’s residence, § 87(2)(b) does not legally reside anywhere and is considered homeless.

At 26:48, PO Arena and PO McDermott speak to § 87(2)(b) again, who states, “Once you walk § 87(2)(b) out of here, he will have to take me to court to get back in here, and he is not on the lease. So therefore, he can’t come.” At 27:12, PO Arena walks away from § 87(2)(b) and states, “I would advise you, if § 87(2)(b) tries to come back that you let him in. Because if you don’t let him in, that’s illegal eviction, and you will be arrested.”

PO Arena testified that he determined § 87(2)(b) lived at § 87(2)(b) apartment because § 87(2)(b) stated he slept there “from time to time” (which § 87(2)(b) confirmed), and he had a bed and clothing there (**Board Review 14**). PO Arena never saw § 87(2)(b) identification, the apartment lease, or any other rental agreement during the incident. PO Arena stated whether § 87(2)(b) was listed on the lease, it would not change the fact that he lived in the apartment, as his statement that he lived there, and the existence of his property was enough for the officers to determine that § 87(2)(b) had resident’s rights. There was no evidence that § 87(2)(b) had been in the apartment for 30 consecutive days, but PO Arena believed that he had been there “long enough” to declare it as his residence. This was why § 87(2)(b) could have been arrested for illegal eviction, as she had locked her son out of his own residence.

NYC Administrative Code 26-521 prohibits individuals from evicting or attempting to evict an occupant of a dwelling unit “who has lawfully occupied the dwelling unit for thirty consecutive days or longer or who has entered into a lease with respect to such dwelling unit or has made a request for a lease for such dwelling unit pursuant to the hotel stabilization provisions of the rent stabilization law...” The code lists no other protected classes of occupants (**Board Review 15**).

§ 87(2)(g)
§ 87(2)(b)
At the time PO Arena threatened to arrest § 87(2)(b) he knew that § 87(2)(b) was an adult (20 years old), was not on the lease, and had not stayed at § 87(2)(b) apartment for 30 consecutive days. Furthermore, PO Arena never checked § 87(2)(b) ID although § 87(2)(b) informed the officers that his listed address was not her address. § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
§ 87(2)(b)
■ § 87(2)(b)
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§ 87(2)(b)
- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 16**).
- PO Arena has been a member of service for six years and has been a subject in four other CCRB complaints and eight other allegations, one of which was substantiated (**Board Review 17**):
 - 201809539 involved one substantiated allegation of Discourtesy: Word against PO Arena. The Board recommended Formalized Training and the NYPD imposed Instructions. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- On March 23, 2022, this case was sent to mediation and on April 19, 2022, the case was returned to investigation as the complaint was no longer suitable for mediation.

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 16

Investigator: Inv. Klingenstein Inv. Aliza Klingenstein June 21, 2022
 Signature Print Title & Name Date

Squad Leader: Patrick Yu IM Patrick Yu 06/23/2022
Signature Print Title & Name Date

Reviewer: _____

Signature _____ Print Title & Name _____ Date _____